

## Chiccine, Catherine

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**From:** Spitzig, Erica M. <ESpitzig@taftlaw.com>  
**Sent:** Wednesday, October 12, 2022 9:10 AM  
**To:** Chiccine, Catherine  
**Cc:** Howell, Tonya; Brown, Randolph; Sperry, Clint; feyi.ilesanmi@dnr.mo.gov; brenna.mcdonald@dnr.mo.gov; Nicholas Galla; John Phillips; Paul Michalski; Todd Aseltyne; Michael Cullen; Frank Deveau  
**Subject:** FW: 22-cv-1038, D.J. Ref. Mo. 90-11-2-417/6 United States and the State of Missouri v. Union Electric Company, d/b/a Ameren Missouri  
**Attachments:** Asst. AG ltr 101122.pdf

Cathie,

See attached for a letter from the City of St. Charles regarding the lodged Consent Decree with Ameren, which was submitted yesterday to DOJ in response to the lodging of the Consent Decree. As you will see from the attached, the City is requesting that EPA host two public meetings to fully inform the public about the contamination at the Site, the proposed remedy, and EPA's plan to ensure that the City's drinking water supply is protected. Given the sampling results in September and the imminent and substantial threat to the City's water supply, it is imperative that the citizens of St. Charles be fully informed about the Site and EPA's plans to address the threat to the City's water supply.

The City also requests that the public comment period be extended for 30 days after the date of the second public meeting, and that EPA issue a press release detailing the terms of the proposed Consent Decree and underlying issues at the site, and announcing the dates of the public meetings. The press release should be distributed to news media publications of general circulation in the St. Charles area, to better ensure that the public is informed about the lodging of the Consent Decree, the availability of the public meetings, and the opportunity to submit comments. Because of the imminent and substantial threat to the City's water supply, reliance on publication in the Federal Register alone is wholly insufficient to ensure that the public is fully informed about and has a meaningful opportunity to participate in the selection of a remedy that will have an effect on their lives.

Please contact me to discuss, once you have had the opportunity to review. Thank you.

Erica

**Taft /**

**Erica M. Spitzig**

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**From:** Michael Cullen <Michael.Cullen@stcharlescitymo.gov>

**Sent:** Tuesday, October 11, 2022 6:17 PM

**To:** 'pubcomment-ees.enrd@usdoj.gov' <pubcomment-ees.enrd@usdoj.gov>

**Subject:** 22-cv-1038, D.J. Ref. Mo. 90-11-2-417/6 United States and the State of Missouri v. Union Electric Company, d/b/a Ameren Missouri

Dear Sirs,

Please find the attached letter addressed to the Assistant Attorney General from the City of St. Charles, Missouri requesting an extension of public comment to the proposed public comment period on the proposed Remedial Design / Remedial Consent Decree lodged on September 28, 2022 with the United States District Court for the Eastern District of Missouri related to the above captioned matter.

Sincerely,

Michael Cullen

**Michael Cullen | City Attorney**

Legal Department | City of St. Charles, Missouri

636-949-3273 | [michael.cullen@stcharlescitymo.gov](mailto:michael.cullen@stcharlescitymo.gov)

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October 11, 2022

**VIA E-MAIL AND U.S. MAIL**

Assistant Attorney General  
U.S. DOJ-ENRD  
P.O. Box 7611  
Washington, D.C. 20044  
pubcomment-ees.enrd@usdoj.gov

***Re: United States and the State of Missouri v. Union Electric Company, d/b/a Ameren Missouri, 22-cv-1038, D.J. Ref. No. 90-11-2-417/6***

Dear Assistant Attorney General:

The City of St. Charles, Missouri (the “City” or “St. Charles”) hereby requests an extension of the public comment period on the proposed Remedial Design/Remedial Action Consent Decree lodged before the United States District Court for the Eastern District of Missouri in the above captioned matter on September 28, 2022 (the “Consent Decree”).

On October 4, 2022, the Notice of Filing Proposed Settlement Agreement Under the Comprehensive Environmental Response, Compensation, and Liability Act Regarding Claims in Connection With the Findett/Hayford Bridge Road Groundwater Superfund Site (the “Notice”) was published in the Federal Register. Publication of the Notice opened a period of public comment whereby the public had thirty (30) days from the date of the Notice to submit comments on the Consent Decree (the “Public Comment Period”).

**The City hereby requests that EPA to host two (2) public meetings to fully inform the public, including but not limited to the citizens of the City, about the Consent Decree and the underlying issues at the Findett/Hayford Bridge Road Groundwater Superfund Site (the “Site”). The City further requests an extension of the Public Comment Period until thirty (30) days after the completion of the second public meeting hosted by EPA, to provide time for members of the public to comment on the Consent Decree after becoming fully informed on the matter.**

Moreover, the City hereby requests that, in addition to the publication in the Federal Register, EPA issue a press release detailing the terms of the proposed Remedial Design/Remedial Action Consent Decree, and underlying issues at the Site, and announcing the dates and times of the public meetings, and that EPA distribute that press release to news media publications of general circulation in the St. Charles area.

This level of public engagement is consistent with EPA’s obligations under the National Contingency Plan and is appropriate to the circumstances of the Site. Indeed, the National Contingency Plan, at 40 C.F.R. § 300.430(c)(5)(ii), provides that “[w]here the enforcement



agreement is embodied in a consent decree, public notice and opportunity for public comment shall be provided in accordance with 28 CFR 50.7” 28 C.F.R. § 50.7(a)-(b) in turn provides for the proposed consent decree to be lodged with the court *at least* 30 days in advance of entry, to allow for consideration of public comments. And section 122(d)(2) of CERCLA also requires the Attorney General to “provide an opportunity to persons who are not named as parties to the action to comment on the proposed judgment before its entry by the court as a final judgment.” EPA guidance notes that “[p]ublic comment periods are important because they allow the affected community to provide input and be involved in a wide variety of site-related decisions throughout the Superfund process.” See [EPA’s Community Involvement Tool on Public Comment Period](#), PDF p. 1.

Furthermore, EPA’s guidance on public participation at Superfund sites requires that the residents of St. Charles be provided with a *meaningful* opportunity to be informed about the issues at the Site and comment on the proposed remedy. See [EPA’s Superfund Community Involvement Handbook](#). Specifically, the guidance sets forth core values that include but are not limited to the following: (a) people should have a say in decisions about actions that affect their lives; (b) the public participation process communicates the interests and meets the needs of all participants; (c) the public participation process seeks out and facilitates the involvement of those who are potentially affected; and (d) the public participation process provides participants with the information they need to participate in a *meaningful way*. *Id.*, PDF p. 17. EPA has yet to provide adequate information to the public to allow them to be fully engaged on the issues present at the Site and evaluate whether the remedy is sufficiently protective of the public. Because of the impact that the Site has on the drinking water supply for the City of St. Charles and its residents, it is *imperative* that the public is fully informed about the ongoing issues at the Site and has a meaningful opportunity for input on EPA’s selected remedy.

The current Public Comment Period does not provide sufficient time or opportunity for members of the public, including citizens of the City, to become fully informed on the issues outlined in the Consent Decree or to provide meaningful comments. An extension of the Public Comment Period is necessary (and appropriate pursuant to the aforementioned guidance) to provide the City, its citizens, and any other members of the public, the opportunity to be fully informed of the issues at the Site and the remedy outlined in the Consent Decree and to adequately prepare and submit any comments in response to the same.

Should there be any questions and/or comments related to the City’s request for an extension of the Public Comment Period, please feel free to contact me to discuss. Thank you.

Sincerely,



Michael J. Cullen  
City Attorney